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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,020	12/12/2003	Jeffrey Dale Wilson	03WIL2	2470
7590	02/17/2006		EXAMINER	
Patent Law Office P.O. Box 91929 Santa Barbara, CA 93190-1929				CARIASO, ALAN B
		ART UNIT	PAPER NUMBER	2875

DATE MAILED: 02/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/735,020	WILSON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Alan Cariaso	2875	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 13 December 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 3-8 is/are allowed.
- 6) Claim(s) 1 and 2 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Amendment***

1. Receipt of applicant's amendment filed December 13, 2005 is acknowledged.

Claims 1-8 are pending, of which claims 1 and 2 are amended.

***Response to Arguments***

2. Applicant states that LaCroix teaches a means for absorbing shock between the laser module and the shell to minimize shock damage to the laser module arising from impact of the laser module with the shell, and argues that the shock absorbing means of LaCroix is not operable for isolating motion of the shell (due to hand tremor) from the laser beam and that LaCroix's shock absorption means does not stabilize the orientation of the laser beam in the event that hand tremor is imparted to the shell.

3. In rebuttal, there is no support in claims 1 and 2 of any means that isolate motion of the shell due to hand tremor from the laser beam. The shocking absorbing means (8, 12, 16, 20, 22, 24) of LaCroix is adequate in stabilizing the orientation of the laser beam by stabilizing the laser head or tube (10) and therefore stabilizing the orientation of the associated laser beam with respect to the housing (2) receiving lateral, radial and/or axial shock loads (col.3, lines 8-16 and col.4, lines 1-5 in LaCroix). The shock absorbing cushion or plates or flexible mounts of LaCroix functionally absorb shock to the laser head from external impact of the housing by cushioning or dissipating the impact motion or vibration from the laser head which would appear to isolate some lateral and axial motion of the impacted housing from the laser head as well as return

the laser head from any axial displacement to its initial position with respect to the housing, any of which is considered to meet the ability to stabilize the orientation of the laser head or laser beam. So, any of the means in LaCroix to cushion, absorb shock from impact is considered to stabilize the position of the laser head which would include operation and stable orientation of a laser beam. Such shock loads would certainly include hand tremors.

4. In response to applicant's amended addition of "adapted to be held by a hand", "operable for stabilizing said orientation", "said orientation of said laser beam being passively dampened with respect to motion of the housing ... when said motion is due to hand tremor", any recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

#### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipation by LACROIX (US 4,357,649).

7. LACROIX discloses a hand-held pointer comprising: (a) a housing (2) having an interior chamber and a longitudinal axis (figs.2, 4 & 5); (b) a power source (19-fig.2, col.3, lines 25-28) disposed within the interior chamber of said housing (2); (c) a laser module (10) disposed within said interior chamber of said housing (2), said laser module (10) being in electrical communication with said power source (19), said laser module (10) being operable for producing a laser beam that inherently has an orientation, and (d) damping means (8, 12, 16, 20, 22, 24) operable for stabilizing said orientation (col.3, lines 8-25, lines 32-42, and line 64 to col.4, line 8) of said laser beam being passively damped with respect to angular motion of the housing (2) about at least one axis perpendicular to said longitudinal axis of said housing (2).

8. As for the phrases "adapted to be held by a hand" in regards to the housing and "said orientation of said laser beam being passively damped with respect to motion of the housing along at least one axis perpendicular to said longitudinal axis of said housing when said motion is due to hand tremor", LACROIX's laser assembly or housing is capable of being hand held, subject to impact and further capable of dampening vibration or motion from any axial or radial impact from at least the industrial environment describe in column 1. These added or amended phrase are considered recitations of intended use or function, with no structural difference between the claimed invention and the prior art to LACROIX, and therefore they do not patentably distinguish the claimed invention from the prior art.

***Allowable Subject Matter***

9. Claims 3-8 are allowed.
10. The following is a statement of reasons for the indication of allowable subject matter: Claims 3-8 have allowable subject matter not suggested by the prior art of record: a gimbal affixed to said housing and said bridge disposed at the center of gravity of said inertial mass.

***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Cariaso whose telephone number is (571) 272-2366. The examiner can normally be reached on 9-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alan Cariaso  
Primary Examiner  
Art Unit 2875

February 15, 2006  
AC